IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

R.P.No. 6 of 2007() IN L.A.A. No. 47 OF 1994

AGAINST THE JUDGEMENT IN LAA.47/1994 Dated 03/03/2003

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REVIEW PETITIONER/APPELLANT/RESPONDENT:

STATE OF KERALA.

BY GOVERNMENT PLEADER ADV. SHRI MANOJ K.V.

RESPONDENT/RESPONDENT/CLAIMANT:

M. JAMEELA BEEVI,
MATHEN HOUSE, VALLAKADAVU,
PALKULANGARA.

BY ADV. SRI.J. GEORGE
ADV. SRI.N.T.GOPALAN

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER IN I.A.NO. 6 OF 2007 IN R.P.No. 6 OF 2007 IN L.A.A.NO. 47 OF 1994.

DISPOSED OF VIDE ORDER DATED 14.02.2007 IN R.P.

14.02.2007. **SD/- K.T. SANKARAN, JUDGE.**

/true copy/

P.A. TO JUDGE.

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K.T. SANKARAN, J.

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R.P.No. 6 OF 2007 IN L.A.A.NO. 47 OF 1994

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Dated this the 14th February , 2007

O R D E R

This Review Petition is filed to review the judgment and decree dated 3rd March, 2003 in L.A.A.No. 47 of 1994. Land Acquisition Appeal was filed by the State challenging the judgment of the Land Acquisition Reference Court. Ground No. 7 in the memorandum of the Land Acquisition Appeal reads as follows:

> *"The court below allowed 12% increase on the market value from 13.03.1980 till 12.04.l988 whereas the 3(1) notification was published only on 12.04.1986. This has resulted in mis-carriage of justice."*

2. In the judgment passed by the court below it was stated that the notification under section 3(1) of the Land Acquisition Act was published on 13.03.1980 and award was passed on 12.05.1988. This itself shows that the date of notification was erroneously mentioned in the judgment of the Reference Court. The award itself would indicate that the notification was

published on 12.04.1986 and declaration was published on 10.04.1987. Learned single Judge who disposed of the Land Acquisition Appeal did not advert to this aspect of the contention. Review Petition is filed in these circumstances.

3. Section 23(1A) of the Land Acquisition Act provides that in addition to the market value of the land, the court shall in every case award an amount calculated at the rate of twelve percent per annum on such market value for the period commencing on and from the date of publication of the notification under section 4(1) in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

4. In the case on hand, the respondent is entitled to get the benefit of the Section 23(1A) only for the period from 12.04.1986 to 12.05.1988 since possession was taken much later after passing the award. The Reference Court was not justified in extending the benefit of Section 23(1A) to the respondent for the period from 13.03.1980 to 12.04.1986. The Reference Court was also under the mistaken impression that the award was passed on 12.04.1986 while the award was passed only on

12.05.1988.

For the aforesaid reasons, Review Petition is allowed in part. The judgment sought to be reviewed is modified in part in the following manner. The judgment and decree passed by the Reference Court granting 12% increase under section 23(1A) of the Land Acquisition Act to the respondent for the period from 13.03.1980 to 12.04.1986 is set aside and instead, the respondent is granted the benefit under section 23(1A) of the Land Acquisition Act only for the period from 12.04.1986 to 12.05.1988.

K.T. SANKARAN,
JUDGE.

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K.T. SANKARAN, J.

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R.P.NO. 6 OF 2007 IN
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